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To: Commissioner for Patents
Fax Number: (571) 273-8300
Date: August 5, 2005
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MESSAGE:

SYSTEM AND METHOD FOR STOCK OPTIONS MARKET MANAGEMENT
Application No. 09/863,920
Examiner D. Felton
Art Unit 3624

Response to Restriction Requirement

FR91999007US1
(590.106)

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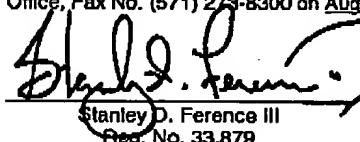
Atty. Docket No. FR91999007US1
(590.106)

In re Application of : Blanchard et al.
Serial No. : 09/863,920 Examiner : Felton, D.
Filed : May 23, 2001 Art Unit : 3624
For : SYSTEM AND METHOD FOR STOCK OPTIONS
MARKET MANAGEMENT

August 5, 2005

RESPONSE TO RESTRICTION REQUIREMENT

I hereby certify that this correspondence and any documents referred to as enclosed therewith are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on August 5, 2005.



Stanley D. Ference III _____ Date of Signature
Reg. No. 33,879

August 5, 2005
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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is responsive to the Office Action dated May 5, 2005, for the above-identified application. In the prosecution of the above-identified application, a Restriction Requirement, dated October 2004, and a Response to the Restriction Requirement, dated January 2005, have already been entered. Thus, the outstanding Restriction Requirement, identical to the one dated October 2004 and in response to Applicant's Response dated January 2005, seems to have been sent in error. The remarks made by Applicant in the Response dated January 2005 are equally applicable to the outstanding Restriction Requirement, and are set forth below.

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The Examiner has asserted that Claims 9-14, drawn to "a system for analyzing the characteristics of sub-time periods of a time period and a program storage device readable by machine" (Group I) and Claims 1-8, drawn to "a method for analyzing the characteristics of sub-time periods of the time period where a change of tend of the price evolution of a plurality of stock options occurs" are patentably distinct species of the claimed invention. The Examiner has required Applicants to elect one group of claims for prosecution.

Applicants respectfully traverse the restriction requirement and request reconsideration and withdrawal of the restriction requirement. As noted in the Office Action, Claims 1-8 are directed to a method, Claims 9-13 are directed to a system, and Claim 14 is directed to a program storage device readable by machine. Simply stated, the restriction requirement is not understood given that the claim structure of the present application complies with long standing Office Practice. As such, the restriction requirement appears to have been issued in error and should be withdrawn.

By way of example, Claim 14 is a so-called Beauregard claim, after the case in which the Office stated "that computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. §§ 102 and 103." *In re Beauregard*, 53 F.3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995); *see also Examination Guidelines for Computer Related Inventions*, MPEP § 2106. Thus, Claim 14 recites a program storage device which, in essence, implements the method of Claim 1. Nonetheless, the Examiner asserts that these claims are in different Groups (Claim 1 - Group II; Claim 14 - Group I). The impropriety of the Office's position in this regard is highlighted by the fact that patents containing method, system, and so-called Beauregard claims have been issued as recently

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as the date on which the January 2005 Response was submitted. *See* Claims 1, 23, and 46, U.S. Patent No. 6,847,993, issued on January 25, 2005, to the assignee of the present application.

Accordingly, Applicants respectfully request the restriction requirement be withdrawn and all claims be examined at this time. In the unlikely event the restriction requirement is not withdrawn, Applicants provisionally elect the claims of Group I (e.g., Claims 9-14).

Applicants, however, also assert that even if the restriction requirement is not withdrawn, the claims of both Groups I and II should be examined at the same time under MPEP § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions"). While U.S. Patent No. 6,847,993 was referred to above, it is merely one of thousands of patents returned in a search on the USPTO website for patents containing the phrase "program storage device". In view of the past Office practice of issuing patents containing method, system, and Beauregard claims, there can be no credible assertion there would be a serious burden in searching and examining the claims of both Groups I and II in the same application.

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(590.106)

In summary, it is respectfully submitted that the outstanding Restriction Requirement should be withdrawn and the instant application, including Claims 1-14, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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